THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION No.8016 of 2007

Dated 19.04.2007

Between:

P.Maheswara Rao.

.... PETITIONER

AND

The Depot Manager, APSRTC, Waltair Depot, Visakhapatnam and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION No.8016 OF 2007

ORDER:

While the petitioner was working as Driver in the respondent-Corporation, charge sheet was issued alleging that he had abused the traffic supervisors of Waltair depot in a drunken state. The petitioner submitted his explanation denying the charges levelled against him. Subsequently, based on the report submitted by the enquiry officer, the first respondent, without issuing show cause notice, passed the order dated 24.10.1991 imposing the punishment of deferment of annual increment, for a period of two years, with cumulative effect. Aggrieved thereby, the petitioner preferred an appeal before the appellate authority. The appellate authority, by proceedings dated 12.04.1992, modified the order of the disciplinary authority to that of deferment of increment for a period of one and half year with cumulative effect instead of two years with cumulative effect. Hence the writ petition.

Learned counsel for the petitioner submits that respondent No.2, without furnishing copy of enquiry report and without affording any opportunity of hearing to the petitioner and without issuing show cause notice, imposed the punishment of stoppage of increment for a period of one and half year with cumulative effect. He further submitted that the issue raised in this writ petition is squarely covered by the order of this Court in W.P. No. 18299 of 2005, dated 05.09.2005. Learned Standing Counsel for the respondent-Corporation admitted the same. He, however, opposed the relief

contending that after considering the entire material on record, the impugned proceedings were modified, and no interference is called for therewith.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-Corporation.

The issue raised in the present writ petition is squarely covered by the order of this Court in W.P. 18299 of 2005, dated 05.09.2005. The operative portion of the said order, reads as under:

> *"Strictly speaking, the impugned order deserves to be set aside, and the matter needs to be remanded. However, having regard to the fact that nearly six years have elapsed, this Court does not find it proper, to subject the petitioner to another set of proceedings. Taking the totality of the circumstances, into account, the punishment of stoppage of increment shall be treated, as the one without cumulative effect. However, the petitioner shall not be entitled for any monetary benefit, upto the date of this order, on account of the modification of the punishment.*
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> *The writ petition is accordingly disposed of. There shall be no order as to costs."*

Hence, following the order of this Court in W.P. No. 18299 of 2005, dated 05.09.2005, the present writ petition is also disposed of with the following direction.

The impugned order dated 12.04.1992, passed by respondent No.2, imposing the punishment of stoppage of increment for a period of one and half year with cumulative effect, is modified to that of stoppage of increment without cumulative effect. However, the petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

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19-04-2007

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